

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS

EASTERN DIVISION

FEB 26 2008

FILED

U.S. ex rel. Theodore Luczak  
PETITIONER.

FEB 26 2008

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

MB

vs.

Case No. 07C 6375

Honorable

Terry McCann

Ronald A. Guzman

RESPONDENT.

Judge Presiding

MOTION FOR APPOINTMENT OF  
COUNSEL OR AN ALTERNATIVE

Now comes petitioner, Theodore Luczak, pro-se, respectfully moving this Honorable Court, pursuant to the authorizing Federal Rule or Statute, allowing the appointment of counsel, or in the alternative a court order affording petitioner adequate access to the facilities law library and adequate and meaningful access to legal materials, that are essential to the drafting of his arguments to be presented to the court for review.

In support of this motion, petitioner states as follows:

- (1) That petitioner is currently incarcerated within the Illinois Department of Corrections, at the Stateville facility, located at Route 53, Post Office Box 112 Joliet, Illinois 60434.

(2) That on November 9, 2007, the petitioner's Habeas Corpus petition was filed, and was assigned to the Honorable Ronald A. Guzman and case number 07C 6375.

(3) That on February 4, 2008, Honorable Guzman, granted petitioner leave to proceed in forma pauperis, ordering the Respondent to answer or plead within twenty days of his order.

(4) That on, or about, August 20, 2007, the petitioner filed a civil rights action in the United States District Court, Northern District of Illinois, for a violation of his right of access to courts. 07C3722.

(5) That on August 30, 2007, Honorable Matthew F. Kennelly, granted petitioner in part, leave to proceed in forma pauperis under case number 07C3722, but denied petitioner's claim for denial of access to courts; only due to three(3) prior strikes under the Prison Litigation Reform Act. (See Exhibit #1)

(6) That in the past year, the petitioner has only been allowed access to the facilities law library two(2) times, and at such times, petitioner was only afforded the use of out dated law books.

(7) That only due to the assistance of Marsha Watt, an Assistant Public Defender, of the Cook County Public

Defender's Office; was this petitioner able to obtain the authority to support his claims now pending before this Honorable Court, and the maps to support the petitioner's request for Judicial Notice of the Indiana-Illinois State Border. (See Exhibit #2)

(8) That on, or about, February 14, 2008, petitioner filed a Memorandum in support of his motion to reconsider the order entered by Honorable Matthew F. Kennelly, in relation to petitioner's denial of access to courts; concerning case number 07C 3722. (See Exhibit #3)

(9) That without the appointment of counsel, the petitioner will essentially be further denied his constitutional rights to adequately present evidence (supporting documents) because the prison officials have denied this petitioner access to the law library, and have illegally confiscated and destroyed most of petitioner's documents in relation to his criminal appeal, and Marsha Watt, of the Cook County Public Defenders office, is currently in the process of obtaining the documents. (See Exhibit #4) and the petitioner is in the process of settling a claim; so he may pay the filing fee of refiling his claim of denial of access to courts. (See Exhibit #5)

(10) That exhibit #3, clearly demonstrates just how effective the Respondent is; in denying the petitioner his right to adequate and meaningful access to courts.

WHEREFORE, petitioner prays that this court will either appoint counsel; or in the alternative enter an order allowing petitioner access to the facilities law library, and to up-dated law books.

Dated: February 20, 2008.

156 Theodore Luczak

Theodore Luczak

Reg No. B-00780